

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Wayne Analyst: Kristina E. North Bill Number: AB 1822

Related Bills: See Prior Analysis Telephone: 845-6978 Amended Date: April 5, 2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Administrative Procedure Act/State Agency Regulations

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended March 13, 2000.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED MARCH 13, 2000 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Administrative Procedures Act (the Act) in the Government Code, this bill makes various changes to the rulemaking process including making the rulemaking file available to the public for inspection and copying during regular business hours beginning on or before the published notice date.

This analysis does not address the bill's provisions applicable to the rulemaking process that do not impact the department's programs and operations.

SUMMARY OF AMENDMENT

The April 5, 2000, amendment:

- ◆ defines "irrelevant comment" as a comment that is not specifically directed at either the agency's proposed action or the rulemaking procedures followed by the state agency. Irrelevant comments may be summarily dismissed as a group.
- ◆ modifies the matters to be considered as evidence in determining "necessity" for a regulation to include facts, studies and expert opinions.
- ◆ specifies that a court may consider any evidence in determining the question of whether a regulation used by an agency is required to be adopted under the Act.
- ◆ makes minor technical changes.

Except for these changes, the department's analysis of the bill as amended March 13, 2000, still applies. The department's implementation concern is restated below.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> X </u> PENDING

Legislative Director

Date

Johnnie Lou Rosas

5/1/00

Implementation Consideration

This bill would impact the department by requiring that rulemaking files be available for public inspection and copying during working hours. The period the files are to be available begins on or before the published notice of proposed action and extends for the entire time the department has possession of the file. It is unclear at what location the department must make the file available (i.e., the original rulemaking file is created and maintained in the headquarters office; however, a member of the public makes a request to inspect and copy the rulemaking file at a district office in another city). Clarification is needed on this issue.

BOARD POSITION

Pending.